

§§ 511.3–511.5 [Reserved]

Subpart B—Program Requirements

§ 511.10 Grant requirements.

A rental rehabilitation program shall comply with the following requirements:

(a) *Lower income benefit*—(1) *100 percent benefit standard.* Except as provided in paragraphs (a)(2) and (a)(3) of this section, all rental rehabilitation grant amounts must be used for the benefit of low-income families.

(2) *Reduction to 70 percent benefit standard.* The 100 percent benefit standard will be reduced to 70 percent if the grantee certifies in its Program Description under § 511.20 (or thereafter in a written amendment to its grant agreement) that:

(i) The reduction is necessary to meet one or both of the following objectives:

(A) To minimize the displacement of tenants in projects to be rehabilitated; or

(B) To provide a reasonable margin for error due to unforeseen, sudden changes in neighborhood rent or for other reasonable contingencies;

(ii) A rental rehabilitation program that meets the 100 percent benefit standard cannot be developed; and

(iii) The public has been consulted regarding this inability.

(3) *Reduction to 50 percent benefit standard.* The benefit standard will be reduced to not less than 50 percent only in extraordinary circumstances approved by HUD. Approval may be granted at the request of the grantee before undertaking any project that will have the effect of reducing the benefit for low-income families for the grantee's program below 70 percent, only where HUD determines that a reduction is necessary to meet an important community need and that the net program impact will strongly favor low-income families. Approval may be granted thereafter only where HUD determines that the grantee made reasonable efforts to meet the higher benefit standard, but was unable to do so because of circumstances beyond its control.

(4) *Definition of benefit.* For purposes of this paragraph (a), benefit for low-

income families will be considered to occur only where dwelling units in projects rehabilitated with rental rehabilitation grants are initially occupied by such families after rehabilitation.

(b) *Use of rental rehabilitation grants for housing for families.* (1) Each grantee shall ensure that an equitable share of rental rehabilitation grant amounts will be used to assist in the provision of housing designed for occupancy by families with children, particularly families requiring three or more bedrooms. HUD will assure that on a national basis at least 15 percent of each year's rental rehabilitation grant amounts (excluding those grant amounts expended for administrative costs under § 511.71) are used to rehabilitate units containing three or more bedrooms. HUD reserves the right prospectively to establish three or more bedroom unit targets for individual grantees if the national goal is in danger of not being met, or if HUD finds that a grantee's production of three or more bedroom units is significantly below that of grantees in similar circumstances. In addition, at least 70 percent of each grantee's annual rental rehabilitation grant must be used to rehabilitate units containing two or more bedrooms. HUD may approve a lower percentage standard submitted by the grantee in its Program Description under § 511.20, or thereafter, based on HUD's determination that the lower standard is justified by factors such as a short waiting list of large families requiring assistance or the nature of the housing stock available for rehabilitation.

(2) If a unit of general local government has an ordinance which requires rehabilitation to meet seismic standards, the grantee may use up to the full amount of its annual rental rehabilitation grant for Federal Fiscal Year 1988 and later years (including reallocations under § 511.33(b) of funds for the same fiscal year) without regard to the requirements of paragraph (b)(1) of this section, but only to the extent it uses such grant amounts to rehabilitate projects to meet the seismic standards required by the local ordinance and to the extent these units in the rehabilitated project are initially occupied after rehabilitation by very low income

families. The grantee or State recipient shall identify as prescribed by HUD in reports required under the C/MI System projects which have been rehabilitated to meet the requirements of a local seismic standards ordinance and contain units which are initially occupied by very low income families after rehabilitation. In determining compliance with paragraph (b)(1) of this section for annual grants under which one or more projects have been rehabilitated to meet the requirements of a local seismic standards ordinance, based on the grantee's or State recipient's reports, HUD will:

(i) Calculate the maximum rental rehabilitation grant amount permissible under § 511.11(e)(2)(i) for the project(s) rehabilitated to meet seismic standards;

(ii) Calculate the maximum permissible rental rehabilitation grant amount for the 0 to 1 bedroom units in such project(s) initially occupied by very low income families after rehabilitation;

(iii) Divide the amount calculated in § 511.10(b)(2)(ii) by the amount calculated in § 511.10(b)(2)(i);

(iv) Multiply the quotient in § 511.10(b)(2)(iii) by the actual rental rehabilitation grant amount expended for the project; and

(v) Deduct the product in § 511.10(b)(iv) from the amount of the grantee's annual rental rehabilitation grant. The grantee will be required to meet the 70 percent, or other approved level, under this § 511.10(b) only as to the amount of its annual grant remaining after making the foregoing deduction.

(c) *Selection of neighborhoods*—(1) *Neighborhood median income and area.* Rental rehabilitation grants shall only be used to assist the rehabilitation of projects located in neighborhoods where the median family income does not exceed 80 percent of the median family income for the area. For purposes of paragraph (c) of this section, *neighborhood* means an area (as determined by the grantee or, as appropriate, the State recipient) that surrounds a project and tends to determine, along with the condition and quality of the project and the dwelling units therein, the rents that are

charged for such units. A neighborhood must have a median family income that does not exceed 80 percent of the median family income for the Metropolitan Statistical Area (MSA) in which it is located, or, in the case of a neighborhood not within an MSA, a median family income that does not exceed 80 percent of the median family income for the State's non-metropolitan areas, or at the grantee's option, the non-metropolitan county in which the neighborhood is located.

(2) *Neighborhood rent affordability.* Rental rehabilitation grant amounts shall only be used to assist the rehabilitation of projects located in neighborhoods in which—

(i) The rents for standard units are generally affordable to low-income families at the time of the selection of the neighborhood; and

(ii) The character of the neighborhood indicates that the rents are not likely to increase at a rate significantly greater than the rate for rent increases that can reasonably be anticipated to occur in the market area for the 5-year period following the selection of the neighborhood.

(d) [Reserved]

(e) *Rehabilitation standards.* Each grantee or State recipient shall adopt written rehabilitation standards with which each assisted project must comply after rehabilitation. At a minimum, such standards shall require that after rehabilitation each unit in the entire project must meet the Section 8 Housing Quality Standards for Existing Housing contained at 24 CFR 882.109.

(f) *Eligible project costs.* Eligible project costs include only:

(1) The actual rehabilitation costs necessary to:

(i) Correct substandard conditions, as reasonably defined by the grantee in its rehabilitation standards adopted under § 511.10(e);

(ii) Make essential improvements, as reasonably defined by the grantee or State recipient in its rehabilitation standards adopted under § 511.10(e), including energy-related repairs, improvements necessary to permit the use of rehabilitated projects by handicapped persons, and activities of lead

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based paint hazards, as required by part 35 of this title;

(iii) Repair major housing systems in danger of failure, as reasonably defined by the grantee or State recipient in its rehabilitation standards under §511.10(e); and

(2) Other costs (soft costs) that are associated with the rehabilitation or rehabilitation financing; are not for services provided or costs incurred by the grantee, State recipient, or the PHA; and are not paid for as administrative costs under §511.71. Such costs may include (but are not limited to):

(i) Architectural, engineering or related professional services required in the preparation of rehabilitation plans and drawings or writeups;

(ii) Costs of processing and settling the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys' fees, private appraisal fees and fees for an independent rehabilitation cost estimate;

(iii) Relocation payments made to tenants who are displaced by the rehabilitation activities; and

(iv) Costs for the owner to provide information services to tenants as required by §§511.13(b), 511.14 (a)(3) and (a)(4), and 511.15(b).

(3)(i) Rehabilitation eligible under §511.10(f)(1) is limited to work done after the commitment to the project (as defined in §511.2) is made, except to the extent that such costs also meet all of the following conditions:

(A) Prior to undertaking any rehabilitation before the project is committed in the C/MI System (hereafter called "precommitment rehabilitation"), the owner and grantee or State recipient agree in writing to include such rehabilitation costs in the project cost, if and when the payment is approved for assistance under this part;

(B) The precommitment rehabilitation costs meet all other requirements of this part, including compliance with the other Federal requirements cited in §511.16, where applicable. In particular, HUD approval of the grantee's certification of completion of environmental responsibilities, when required under 24 CFR part 58, must occur prior to execu-

tion of the written agreements to include the costs; and

(C) The precommitment rehabilitation costs were incurred by the owner after the date of the Appropriation Act which made available the grant amounts for the project in question.

(ii) Other project-related costs eligible under §511.10(f)(2) are also limited to those costs incurred after the commitment to the project is made by the grantee or State recipient and the project is set up in the C/MI System, except to the extent such costs also meet all of the following conditions:

(A) The grantee or State recipient and the owner agreed in writing before the costs were incurred that such costs could be included in the project cost, if and when the project was approved for assistance under this part, or the grantee specifically agrees in writing to include such costs in the project cost on or before the date the project is set up in the C/MI System;

(B) The costs also meet the conditions stated in §511.10(f)(3)(i)(B) and §511.10(f)(3)(i)(C).

(4) For projects where the owner or other individuals are performing some or all of the rehabilitation work without compensation (to the extent permitted by §511.16(a)):

(i) If the owner is not a practicing, licensed contractor, rehabilitation costs eligible under §511.10(f)(1) are limited to the cost of materials purchased by the owner and used on the project and the cost of other eligible work performed by practicing, licensed contractors, subcontractors or tradesmen on the project.

(ii) If the owner is a practicing, licensed contractor, then eligible project costs may include an amount, in addition to that permitted under paragraph (f)(4)(i) of this section, for the contractor's paid labor, overhead and profit, similar in amount to what these items would be if the work were being performed on a project that was not owned by the contractor.

(iii) Under either paragraph (f)(4)(i) or (f)(4)(ii) of this section, donated labor or work is not part of eligible project cost.

(g) *Project selection priorities*—(1) *Projects with units occupied by very low income families.* While the program can

be used for rehabilitating both occupied and vacant units, the grantee shall assure that priority is given to the selection of projects containing units that do not meet the rehabilitation standards adopted under § 511.10(e) and which are occupied by very low income families before rehabilitation.

(2) *Units that are accessible to the handicapped.* As stated in 24 CFR 8.30, the grantee shall, subject to the priority in § 511.10(g)(1) and in accordance with other requirements in this part, give priority to the selection of projects that will result in dwelling units being made readily accessible to and usable by individuals with handicaps.

(Approved by the Office of Management and Budget under control numbers 2506-0110, 2506-0078, 2506-0080)

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§ 511.11 Project requirements.

(a) *Rehabilitation.* To receive assistance under this part, a project must require rehabilitation, measured by whether the project before the assisted rehabilitation does not meet the rehabilitation standards under § 511.10(e). If a project is terminated before completion of rehabilitation (as defined in § 511.2), whether voluntarily by the grantee or otherwise, amounts equal to the rental rehabilitation grant amounts already dispersed for the project under the C/MI System are not eligible project costs, whether or not the grantee has already expended such grant amounts to pay for project costs. If such amount is not repaid, the grantee may be subject to corrective and remedial actions under § 511.82.

(b) *Primarily residential rental use.* Rental rehabilitation grants shall only be used to rehabilitate projects to be used for “primarily residential rental” use. For purposes of this part, a project is used for primarily residential rental purposes if at least 51 percent of the rentable floor space of the project is used for residential rental purposes after rehabilitation, except that in the case of a two-unit building, at least 50 percent of the rentable floor space after rehabilitation must be used for residential rental purposes after reha-

bilitation. “Primarily residential rental” use also includes cooperative or mutual housing that has a resale structure that enables the cooperative to maintain rents affordable to low-income families.

(c) *Privately owned real property—(1) General.* Rental rehabilitation grant amounts shall only be used for eligible costs of projects that are in private ownership at the time the commitment is made to a specific local project, as defined in § 511.2, or projects that are publicly owned at commitment which meet the requirements in § 511.11(c)(2).

(2) *Publicly owned project at the time of commitment.* Rental rehabilitation grant amounts may be used to assist publicly owned projects under the following conditions:

(i)(A) For a publicly owned project where the commitment to a specific local project occurs on or after December 22, 1989, the grantee or State recipient—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that it will commence rehabilitation within 90 days of commitment under the C/MI System, and that rehabilitation will be completed and the project transferred to an eligible private owner within the two years and 90 days from the date of commitment in the C/MI system or the time remaining under § 511.33(c) for expenditure of the rental rehabilitation grant amounts committed to the project, whichever is shorter. The Project Completion Report under the C/MI system identifying the private entity to which ownership has been transferred shall be submitted within 90 days of the final draw, but not later than two years and 90 days after the date of commitment.

(B) For a publicly owned project where the commitment to a specific local project occurred before December 22, 1989, the grantee or State recipient—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that the rehabilitation will be completed